

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 444 of 1997

with

CRIMINAL REVISION APPLICATIONS NO. 445 & 446 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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J B TRANSPORT CO,

Versus

STATE OF GUJARAT

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Appearance:

MR SUKHVASI B SHARMA for Petitioner  
Ms. Gajjar, APP for Respondent No. 1  
Respondent No. 2 served.

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 14/10/97

ORAL JUDGEMENT

Initially it appeared that complaint is hit by the provisions of Section 22 B of the Minimum Wages Act, 1948 as the sanction having been given on 2.5.1995 the complaint having been filed on 5.6.1995 it is beyond the period of one month.

However, this will be the position provided the complaint was only in respect of breaches contemplated under Section 22 (a) and (b) of the Act. Complaint at page 11 of Criminal Revision Application No. 444 of 1997 reveals possibility of there being offence punishable under Section 22A of the Act.

The aforesaid Section 22 B does not prescribe any requirement of sanction for offence punishable under Section 22A and the limitation prescribed is six months from the date of the occurrence of the offence which was detected on 7.3.1995 when the Inspector visited the petitioner's office. The complaint having been filed on 5.6.1995 it is well within the period of six months. In other words, the view expressed by the learned Metropolitan Magistrate in the impugned order below Ex.5 in a way takes care of the situation. He merely says that let opportunity be given to the complainant to make out whether there is any such impediment as contemplated under Section 22B of the Act. While disposing of the petitions, therefore, observation is required to be made that the learned Metropolitan Magistrate as and when conducts the matter and records evidence shall keep in mind requirement of Section 22B both with regard to filing of complaint within one month after obtaining the sanction and filing the complaint within six months of the occurrence of the offence. The petitioners/accused are, therefore, at liberty to raise these points again before the learned Metropolitan Magistrate after the evidence is recorded and the trial court shall give its judgment on the basis of the evidence and the material produced in accordance with law keeping especially in mind the aforesaid requirements of section 22B. The application at Ex.5 will not come in the way of the petitioners and they shall be permitted to raise all the points as may be admissible looking to the material on record. With these observations, the petitions are rejected. Rule is discharged. Ad-interim relief stands vacated.